

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1803 of 1994

with

SPECIAL CIVIL APPLICATION No 1794 of 1994

to

SPECIAL CIVIL APPLICATION No 1802 of 1994

and

SPECIAL CIVIL APPLICATION No 1658 of 1994

and

SPECIAL CIVIL APPLICATION No 5189 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

JIVA NAGA

Versus

CHIEF ADMINISTRATIVE OFFICER

Appearance: (In all the special civil applications:)

MR JA ADESHRA for Petitioner

MR DIPAK PATEL for MR DG CHAUHAN for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/11/1999

ORAL JUDGEMENT

1. From time to time all these matters are coming up for hearing on the Board. Last time the matters were adjourned on the request of the counsel for the respondents as he was reported to be not well. Today again Shri Dipak Patel is making request for adjournment of these matters on the ground of illness of Shri D.G. Chauhan. In view of the order which I propose to pass in these matters, I do not consider it to be appropriate to adjourn these matters.

2. All the petitioners are Engine Drivers. They were given the pay scale of Rs.350-560 w.e.f. 1-1-1973. From 1-1-1986 this pay scale of Rs.350-560 was revised to Rs.1200-2040 and accordingly the petitioners were given the benefits of this revised pay scale. After about eight years, the respondents have sought to reduce the pay scale of the petitioners from Rs.1200-2040 to Rs.950-1500.

3. Learned counsel for the petitioners submits that earlier the petitioners through their Union filed special civil application No.9776 of 1993 which has been decided by this court on 28th September, 1993. That petition has been filed against the show cause notice which was given to the petitioners by the respondents for reducing their pay scale from Rs.1200-2040. After decision of this petition, if any adverse order is to be passed against the petitioners, it was permissible to be done only after giving them an opportunity of personal hearing, which has not been done in the present case. It has next been contended that it is a sheer mistake that in the Revised Pay Scale Rules of 1987, the existing pay scale of the Engine Drivers was shown to be Rs.260-350 and as a result of this the revised pay scale was taken to be Rs.950-1500. In fact their pay scale was Rs.350-560 from 1-1-1973 and corresponding to which their revised pay scale should have been Rs.1200-2040. The respondents are not appreciating their own mistake and they want to take away all the benefits which the petitioners were getting for all these years.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioners.

5. The order of this Court dated 28th September,

1993 passed in special civil application No. 9776 of 1993, reads as under:

Notice to Respondent-Board.

Mr. D.G. Chauhan, learned counsel waives service for the respondent- Board and states that so far the Board has not taken any action for reducing the pay scale and salary of the workman and further states that if the Board wants to take such action, it will give opportunity of hearing to the concerned workman. In view of that statement, learned counsel for the petitioner withdraws this petition. Hence, dismissed as withdrawn. If any adverse order is passed against the workman regarding reduction in salary, the same shall not be implemented for a period of one week from the date of its communication to the workman. Notice discharged.

6. The respondents have not disputed that after this order and before passing the impugned order, the petitioners were not given an opportunity of personal hearing. It is true that the show cause notice was given earlier but in view of the order of this court aforesaid, the petitioners before any order adverse to them has to be passed by the respondents were to be given an opportunity of personal hearing, which has not been done in these cases.

7. The other contention of the learned counsel for the petitioners that by mistake of treating existing pay scale of the petitioners to be Rs.260-350, in the Revised Pay Scale Rules of 1987, the respondents want to take the benefit of this mistake is also not without any substance and merits. The petitioners were given the pay scale of Rs.350-560 from 1-1-1973 and the revised pay sale for this from 1-1-1986 is Rs.1200-2040 which they were also given. In these facts, it is a case where the personal hearing has to be afforded to the petitioners as the impugned order ensues civil consequences. This court has protected the petitioners by grant of interim relief though subject to the condition of furnishing an undertaking by the petitioners to the effect that in case of their failure in the petitions they shall pay up the difference of wages received by them within time stipulated by the court while disposing of the petitions finally. So the petitioners were getting all the benefits.

8. In view of these facts, I consider it to be in

the interest of justice that these matters may be disposed of with the direction to the respondents to hear the petitioners in the matter and then pass appropriate order. Till this exercise is undertaken and completed by passing the final order, the interim relief which has been granted by this court shall continue. Liberty is granted to the petitioners for revival of these special civil applications in case of difficulty and where the order is passed adverse to the petitioners the same shall not be given effect to for fifteen days. The special civil applications and Rule stand disposed of in the aforesaid terms however with no order as to costs.

zgs/-